

REMARKS

Claims 1–19 are pending in this application. Claims 1–6 are currently amended.

Claims 20–22 are cancelled.

Claims 1–22 stand rejected under 35 USC 102(b) and 102(e) as being anticipated by Esperester. The Examiner states that Esperester “teaches a method of treating or prevent various venous insufficiencies of the lower extremities via orally administering...to a subject in need thereof an effective amount of an aqueous red vine leaf extract.” The Examiner asserts that “the administration of the aqueous red vine leaf extract...would inherently provide the in vivo functional effects instantly claimed including those drawn to enhancing blood microcirculation and/or oxygen supply of the skin of the low extremities.

The Applicant respectfully disagrees with the Examiner and submits that the claimed enhancement of microcirculation and/or oxygen delivery is not implicitly disclosed by the cited references because the inherent disclosure is not “necessarily present” in the reference.

As acknowledged by the Examiner, the cited references do not actually disclose the means by which red vine leaf extract accomplishes the claimed therapeutic effect of reducing edema. The cited references only disclose the reduction of lower leg volume of CVI patients after administration of red vine leaf extract.

However, the therapeutic effect of reducing edema can be accomplished through several means, including decreasing inflammation, increasing circulation rate, and increasing blood pressure.

Therefore, it is not necessary to increase blood microcirculation and/or oxygen delivery to reduce excessive fluid. Thus, the presently claimed method for enhancing blood microcirculation and/or oxygen supply is not inherently or implicitly disclosed by a reference that discloses reduced edema.

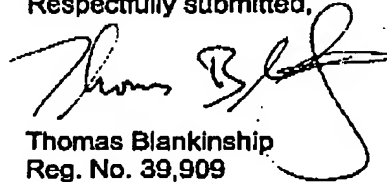
Furthermore, the Applicant respectfully submits that the cited references do not disclose or even suggest the presently claimed feature of "administering an effective amount of an aqueous extract of red vine leaves to the patient, the effective amount adapted to effect in the patient a Laser Doppler Flowmetry frequency increase between about 127 to about 194 in the 10–37 kHz range after 3 weeks from the beginning of treatment." This presently claimed feature of the Applicant's invention is disclosed in Table 3 on page 13 of the present application.

In light of the foregoing, the Applicant respectfully requests that the §102(b) and (e) rejections of claims 1–22 be reconsidered and withdrawn.

Claims 20–22 have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting based on claims 22–28 of co-pending U.S. Patent Application No. 10/743,170. In light of the foregoing amendments to the claims, the Applicant respectfully submits that the double patenting rejection of claims 20–22 is now moot and should be withdrawn.

The Applicant respectfully requests favorable consideration and that the claims of this application be passed to allowance.

Respectfully submitted,

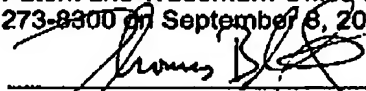


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